

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

U. J. Zerk  
R-I  
29695

**FILE:** B-216597

**DATE:** October 30, 1984

**MATTER OF:** Gracon Corporation

**DIGEST:**

GAO will not consider a protest where the material issues are before a court of competent jurisdiction and the court has not expressed interest in GAO's decision.

Gracon Corporation (Gracon) protests any award to Western States Construction Company, Inc. (Western), under invitation for bids (IFB) No. DACA45-84-B-0067 issued by the Department of the Army for the dismantlement of the Titan II missile silos at McConnell Air Force Base, Kansas. Gracon contends that Western's bid is nonresponsive and should be rejected. The protester has also filed suit in the United States Claims Court, involving the same issues raised in the protest, seeking declaratory and injunctive relief.

It is this Office's policy not to render a decision where the material issues are pending before a court of competent jurisdiction unless the court expresses an interest in our decision. Joule Maintenance Corporation, B-212753, Jan. 30, 1984, 84-1 C.P.D. ¶ 128. The court has not expressed such interest.

The protest is dismissed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
General Counsel

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